

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JOHN ANCTIL, et al.,

Plaintiffs,

-against-

ALLY FINANCIAL, INC., et al.,

Defendants.

Civil Action No. 12-CV-8572

Hon. Cathy Seibel

**DEFENDANTS MORTGAGEIT, INC. AND DEUTSCHE BANK, AG'S
NOTICE OF MOTION TO DISMISS THE SECOND AMENDED COMPLAINT
FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

PLEASE TAKE NOTICE that pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Declaration of Michael A. Weiss dated June 20, 2013, and the Memorandum of Law dated June 20, 2013, a motion will be made by Defendants Deutsche Bank, AG and MortgageIT, Inc. at The Hon. Charles L. Brieant Jr. United States Courthouse, 300 Quarropas St., White Plains, NY 10601, for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Second Amended Complaint against them for failure to state a claim upon which relief can be granted, and for such other and further relief which this Court deems just, proper and equitable.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's May 24, 2013 memorandum endorsement of the May 22, 2013 letter to the Court of Lisa J. Fried, (1) Plaintiffs' opposition to this Motion (the "Opposition") shall be served on or before August 2, 2013, and (2) the undersigned Defendants' reply in further support of their Motion, if any, shall be served no

later than three weeks after Plaintiffs' Opposition is served.

Dated: New York, New York
June 20, 2013

Respectfully submitted,

DAY PITNEY LLP
Attorneys for Defendants MortgageIT, Inc. and
Deutsche Bank, AG

By: /s/ Joy Harmon Sperling
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CERTIFICATE OF SERVICE

I, Joy Harmon Sperling, hereby certify that a copy of the foregoing document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies shall be served by first class mail postage prepaid on all counsel who are not served through the CM/ECF system on June 20, 2013.

/s/ Joy Harmon Sperling

Joy Harmon Sperling